

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARK MCKAY,

No. 4:21-CV-01053

Plaintiff,

(Judge Brann)

v.

(Magistrate Judge Carlson)

SUPERINTENDANT HARRY, *et al.*,

Defendants.

ORDER

AUGUST 11, 2021

Plaintiff filed the instant action on June 15, 2021, and it was jointly assigned to the undersigned and to a magistrate judge. Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of fact and recommendations.”¹ Once filed, this report and recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.²

On June 22, 2021, Magistrate Judge Martin C. Carlson, to whom this matter is jointly assigned, issued a thorough report and recommendation recommending that the complaint be dismissed without prejudice.

No objections to the report and recommendation have been filed, but Plaintiff filed an amended complaint. For portions of the report and

¹ 28 U.S.C. 636(b)(1)(B).

² 28 U.S.C. 636(b)(1).

recommendation to which no objection is made, the Court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”³ Regardless of whether timely objections are made by a party, the District Court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.⁴

Because I write solely for the parties, I will not restate the facts, but will instead adopt the recitation of facts as set forth by the magistrate judge.

AND NOW, IT IS HEREBY ORDERED that:

1. Magistrate Judge Carlson’s Report and Recommendation (Doc. 7) is **ADOPTED** in its entirety.
2. The complaint is dismissed without prejudice. Plaintiff may file an amended complaint within 21 days of today. If no amended complaint is filed, the case may be subject to closure.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge

³ Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (*citing Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that judges should give some review to every report and recommendation)).

⁴ 28 U.S.C. § 636(b)(1); Local Rule 72.31.